

**THE BOMBAY PREVENTION OF FRAGMENTATION AND CONSOLIDATION OF
HOLDINGS ACT, 1947.**

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BOMBAY ACT No. LXII OF 1947.¹

[THE BOMBAY PREVENTION OF FRAGMENTATION AND CONSOLIDATION OF HOLDINGS ACT, 1947.]

[29th January 1948.]

An Act to provide for the prevention of fragmentation of agricultural holdings and for their consolidation.

WHEREAS it is expedient to prevent the fragmentation of agricultural holdings and to provide for the consolidation of agricultural holdings for the purpose of the better cultivation thereof; It is hereby enacted as follows :--

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947. Short title,
extent and
commence-
ment.

(2) It extends to the whole of the Province of Bombay.

(3) It shall come into force in such areas and on such date as the Provincial Government may by notification in the *Official Gazette* direct.

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(1) "agricultural year" means the year commencing on the first day of April;

(2) "consolidation of holdings" means the amalgamation and where necessary the redistribution of holdings or portions of holdings in any village, mahal or taluka or any part thereof so as to reduce the number of plots in holdings;

(3) "Consolidation Officer" means an officer appointed as such under section 15 by the Provincial Government, and includes any person authorized by the Provincial Government to perform all or any of the functions of the Consolidation Officer under this Act;

(4) "fragment" means a plot of land of less extent than the appropriate standard area determined under this Act:

Provided that, no plot of land shall be deemed to be a fragment by reasons of any diminution in its area by diluvion;

(5) "land" means agricultural land whether alienated or unalienated;

(6) "local area" means any area notified as such in the *Official Gazette* under section 3;

(7) "Mamlatdar" shall include a Mahalkari;

(8) "Owner" means in the case of unalienated land the occupant and when such land has been mortgaged, owner means the mortgagor; in the case of alienated land owner means the superior holder;

(9) "prescribed" means prescribed by rules made under this Act;

(10) "standard area" in respect of any class of land means the area which the Provincial Government may from time to time determine under section 5 as the minimum area necessary for profitable cultivation in any particular local area, and includes a standard area revised under the said section;

(11) words and expressions used in this Act, but not defined, have the meaning assigned to them in the Bombay Land Revenue Code, 1879.

Bom
V of
1879.

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1946, Part V, page 139; for Report of the Select Committee, see *ibid*, 1947, Part V, page 195; for Proceedings in Assembly, see *Bombay Legislative Assembly Debates*, 1947, Vol. X and Vol. XI; and for Proceedings in Council, see *Bombay Legislative Council Debates* 1947, Vol. XIII.

CHAPTER II.

DETERMINATION OF LOCAL AND STANDARD AREAS AND TREATMENT OF
FRAGMENTS.

Determina-
tion of
local area.

3. The Provincial Government may, after such inquiry as it deems fit, by notification in the *Official Gazette*, specify a village, mahal or taluka or any part thereof as a local area for the purposes of this Act.

Settlement
of standard
areas.

4. (1) The Provincial Government may, after such inquiry as it deems fit and after consultation with the District Advisory Committee appointed by it, provisionally settle for any class of land in any local area the minimum area that can be cultivated profitably as a separate plot.

(2) The Provincial Government shall by notification in the *Official Gazette* and in such other manner as may be prescribed publish the minimum areas provisionally settled by it under sub-section (1) and invite objections thereto.

Determina-
tion and
revision of
standard
areas.

5. (1) The Provincial Government shall, after considering the objections, if any, received within three months of the date of publication of the notification under sub-section (2) of section 4 in the village concerned and making such further inquiry as it may deem fit, determine the standard area for each class of land in such local area.

(2) The Provincial Government may, at any time, if it deems it expedient so to do, revise a standard area determined under sub-section (1). Such revision shall be made in the manner laid down in section 4 and sub-section (1).

(3) The Provincial Government shall, by notification in the *Official Gazette* and in such other manner as may be prescribed, give public notice of any standard area determined under sub-section (1) or revised under sub-section (2).

Entry in
the Record
of Rights.

6. (1) On notification of a standard area under sub-section (3) of section 5 for a local area all fragments in the local area shall be entered as such in the Record of Rights, or where there is no Record of Rights in such village record as the Provincial Government may prescribe.

(2) Notice of every entry made under sub-section (1) shall be given in the manner prescribed for the giving of notice under the Bombay Land Revenue Code, 1879, ^{Bom. V of 1879.} of an entry in the register of mutations.

Transfer
and lease
of frag-
ments.

7. (1) No person shall transfer any fragment in respect of which a notice has been given under sub-section (2) of section 6 unless thereby the fragment becomes merged in a contiguous survey number or recognised sub-division of a survey number.

(2) Notwithstanding anything contained in the Bombay Tenancy Act, 1939, no ^{Bom. XXIX of 1939.} such fragment shall be leased to any person other than a person cultivating any land which is contiguous to the fragment.

Fragmenta-
tion prohib-
ited.

8. No land in any local area shall be transferred or partitioned so as to create a fragment.

Penalty for
transfer or
partition
contrary to
provisions
of Act.

9. (1) The transfer or partition of any land contrary to the provisions of this Act shall be void.

(2) The owner of any land so transferred or partitioned shall be liable to pay such fine not exceeding Rs. 250 as the Collector may, subject to the general orders of the Provincial Government, direct.

10. (1) Any owner of a fragment may transfer it to the Crown for the purposes of the Province on payment by the Crown of such compensation to persons possessing interest therein as the Collector may determine and thereupon the fragment shall vest absolutely in the Crown for the purposes of the Province free from all encumbrances.

Transfer of estate assessed to Crown.

Bom. V of 1879. (2) Any such fragment may be disposed of in accordance with the provisions of section 117-B of the Bombay Land Revenue Code, 1879.

V of 1908. 11. When a decree is transferred to the Collector under section 54 of the Code of Civil Procedure, 1908, for the partition of an undivided estate assessed to the payment of revenue to the Crown in any local area for which standard areas have been fixed, or for the separate possession of a share of such an estate, no such partition or separation shall be made so as to create a fragment.

Partition of estate assessed to payment of revenue to Crown or separation of share thereof.

I of 1894. 12. In determining the compensation for the purposes of section 10 the Collector shall have regard to the provisions of sub-section (1) of section 23 of the Land Acquisition Act, 1894.

Determination of compensation for purposes of section 10.

Bom. V of 1879. 13. In sections 117A and 117B of the Bombay Land Revenue Code, 1879, the following shall be inserted at the commencement of the said sections, namely :—

Amendment of sections 117A and 117B of Bom. V of 1879.

Bom. LXII of 1947. "Subject to the provisions of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947,"

14. Notwithstanding anything contained in any law for the time being in force no land shall be acquired by the Provincial Government or any local authority or sold at any sale held under the orders of any Court so as to leave a fragment.

Provincial Government or local authority not to acquire land so as to leave fragment.

CHAPTER III.

PROCEDURE FOR CONSOLIDATION.

15. With the object of consolidating holdings in any village, mahal or taluka or any part thereof for the purpose of better cultivation of lands therein, the Provincial Government may declare by a notification in the *Official Gazette* and by publication in the prescribed manner in the village or villages concerned its intention to make a scheme for the consolidation of holdings in such village or villages or part thereof as may be specified. On such publication in the village concerned the Provincial Government may appoint a Consolidation Officer who shall proceed to prepare in the prescribed manner a scheme for the consolidation of holdings in such village or villages or part thereof, as the case may be.

Government may of its own accord or on application declare its intention to make scheme for consolidation of holdings.

16. (1) The scheme prepared by the Consolidation Officer shall provide for the payment of compensation to any owner who is allotted a holding of less market value than that of his original holding and for the recovery of compensation from any owner who is allotted a holding of greater market value than that of his original holding.

Scheme to provide for compensation.

I of 1894. (2) The amount of compensation shall be determined, so far as practicable, in accordance with the provisions of sub-section (1) of section 23 of the Land Acquisition Act, 1894.

Amalgamation of public roads, etc., within scheme for consolidation of holdings.

17. (1) Whenever in preparing a scheme for the consolidation of holdings, it appears to the Consolidation Officer that it is necessary to amalgamate any road, street, lane or path with any holding in the scheme, he shall make a declaration to that effect stating in such declaration that it is proposed that the rights of the public as well as of all individuals in or over the said road, street, lane or path shall be extinguished or, as the case may be, transferred to a new road, street, lane or path laid out in the scheme of consolidation.

(2) The declaration in sub-section (1) shall be published in the village concerned in the prescribed manner along with the draft scheme referred to in section 19.

(3) Any member of the public or any person having any interest or right, in addition to the right of public highway, in or over the said road, street, lane or path or having any other interest or right which is likely to be adversely affected by the proposal may, within thirty days after the publication of the declaration under sub-section (1), state to the Consolidation Officer in writing his objection to the proposal, the nature of such interest or right and the manner in which it is likely to be adversely affected and the amount and the particulars of his claim to compensation for such interest or right :

Provided that no claim for compensation on account of the extinction or diminution of the right of public highway over such road, street, lane or path shall be entertained.

(4) The Consolidation Officer shall, after considering the objections, if any, made to the proposal, submit it with such amendments, if any, as he may consider necessary, to the Settlement Commissioner, together with the objections received, his recommendations thereon and a statement of the amounts of compensation, if any, which in his opinion are payable, and of the persons by whom and the persons to whom such compensation is payable. The decision of the Settlement Commissioner on the proposal and regarding the amount of compensation and the persons by whom such compensation, if any, is payable, shall, subject to any modification made by the Provincial Government, be final.

Revocation of assignments of lands.

18. Notwithstanding anything contained in any law for the time being in force, it shall be lawful for the Consolidation Officer to direct that any land specifically assigned for any public purpose shall cease to be so assigned and to assign any other land in its place.

Publication of draft scheme.

19. (1) When the draft scheme of consolidation is ready for publication, the Consolidation Officer shall publish it in the prescribed manner in the village or villages concerned. Any person likely to be affected by such scheme, shall, within thirty days of the date of such publication, communicate in writing to the Consolidation Officer any objections relating to the scheme. The Consolidation Officer shall, after considering the objections, if any received, submit the scheme with such amendments as he considers to be necessary, together with his remarks on the objections, to the Settlement Commissioner.

(2) The Consolidation Officer shall also publish the scheme as amended by him.

Confirmation of scheme.

20. (1) If within thirty days of its publication no objections are received to the draft scheme published under sub-section (1) or the amended draft scheme published under sub-section (2) of section 19, as the case may be, the Settlement Commissioner shall confirm the scheme.

(2) If any objections are received to the amended draft scheme published under sub-section (2) of section 19, the Settlement Commissioner shall after taking the objections into consideration submit it with such modifications as he considers necessary to the Provincial Government.

(3) The Provincial Government may either confirm the scheme with or without modifications or refuse to confirm it :

Provided that the Provincial Government shall, if the scheme has been modified by the Settlement Commissioner under sub-section (2) publish it as so modified, and take into consideration the objections, if any, received within thirty days of such publication before acting under this sub-section.

21. (1) Upon the confirmation of the scheme under sub-section (1) or (3) of section 20, the scheme as confirmed shall be published in the *Official Gazette* and also in the prescribed manner in the village or villages concerned, and if all the owners affected by such scheme agree to enter into possession of the holdings allotted to them thereunder, the Consolidation Officer may allow them to enter into such possession forthwith or from such date as may be specified by him. Right to possession of new holdings.

(2) If all the owners affected by the scheme do not agree to enter into possession under sub-section (1) they shall be entitled to possession of the holdings allotted to them under the scheme from the commencement of the agricultural year next following the date of its publication in the *Official Gazette* under sub-section (1) and the Consolidation Officer shall, if necessary, put them in possession of the holdings to which they are so entitled, and for doing so may in the prescribed manner evict any person from any land.

(3) Notwithstanding anything contained in sub-section (2) no owner shall be entitled to possession of any holding allotted to him under the scheme unless he deposits in the prescribed manner within fifteen days of the commencement of the said agricultural year such compensation as is recoverable from him under the scheme.

(4) Where an owner fails to comply with the provisions of sub-section (3) his right in such holding may be allotted in the prescribed manner by the Consolidation Officer to any other person who pays the value of the holding, and in such case the value realised after deducting the expense (hereinafter called the net value) shall be paid to the owner and any other person having an interest in the holding.

22. As soon as the persons entitled to possession of holdings under this Act have entered into possession of the holdings respectively allotted to them, the scheme shall be deemed to have come into force. Coming into force of scheme.

23. Notwithstanding anything contained in any law for the time being in force, the rights of owners, or other persons having interest, shall for the purpose of giving effect to any scheme of consolidation affecting them be transferable by exchange or otherwise. Certain laws no ban on transfer of holdings.

24. (1) The Consolidation Officer shall grant to every owner to whom a holding has been allotted in pursuance of a scheme of consolidation and to every person to whom a right is allotted under sub-section (4) of section 21, a certificate in the prescribed form duly registered under the Indian Registration Act, 1908, to the effect that the holding has been transferred to him in pursuance of the scheme. Certificate of transfer.

(2) Notwithstanding anything contained in any law for the time being in force no stamp or registration fee shall be payable in respect of such certificate.

25. For carrying out any of the purposes of this Act, a loan may be granted to an owner and recovered from him as a loan under the Land Improvement Loans Act, 1883, or the Agriculturists' Loans Act, 1884. Loans to assist consolidation.

XVI
of
1908.

XIX
of
1883.
XII
of
1884.

CHAPTER IV.

EFFECT OF CONSOLIDATION PROCEEDINGS AND OF CONSOLIDATION OF
HOLDINGS.

Exercise
by Consoli-
dation Officer
of powers
under certain
Acts.

26. (1) During the continuance of the consolidation proceedings the Consolidation Officer shall exercise and discharge the functions of a revenue officer under Chapter IX of the Bombay Land Revenue Code, 1879, the Mamlatdars' Courts Act, 1906, and the Bombay Tenancy Act, 1939; and no revenue officer other than the Consolidation Officer shall take any proceedings under any of the said Acts in respect of any holding or land for the consolidation of which a notification has been issued under section 15.

Bom.
V of
1879.
Bom.
II of
1906.
Bom.
XXIX
of
1939.

(2) Where in respect of any holding the Consolidation Officer proceeds to prepare a scheme under section 15—

(a) all applications and proceedings including execution proceedings pending before any revenue officer under Chapter IX of the Bombay Land Revenue Code, 1879, the Mamlatdars' Courts Act, 1906, and the Bombay Tenancy Act, 1939, in respect of any holding or land for the consolidation of which a notification has been issued under section 15 shall be transferred to the Consolidation Officer; and

Bom.
V of
1879.
Bom.
II of
1906.
Bom.
XXIX
of
1939.

(b) the Consolidation Officer shall, by proclamation, call upon all persons who claim to be entitled to possession under any of the said Acts of any holding for the consolidation of which a notification has been issued under section 15 to make within the prescribed period an application to be put in possession of such holdings; and any person who fails to do so within the prescribed period shall thereafter be debarred from making it:

Provided that nothing in this clause shall debar any person from making, after the coming into force of a scheme of consolidation under section 22, any application in respect of any holding included in the scheme, if such application could lie under the provisions of any law for the time being in force.

(3) The Consolidation Officer shall submit any order passed by him under any of the said Acts to the Collector for confirmation if an application in that behalf is made to him by any party to a proceeding under this section within fifteen days from the date of the order.

Stay of
proceedings
under sec-
tions 153
and 155 of
Bom. V of
1879; ban
on transfer
of land during
continuance
of consolida-
tion proceed-
ings.

27. When a Consolidation Officer proceeds to prepare a scheme under section 15, during the continuance of the consolidation proceedings—

(a) no proceedings under section 153 or 155 of the Bombay Land Revenue Code, 1879, in respect of any land in respect of which a notification has been issued under section 15 shall be commenced; and all such proceedings if commenced shall be stayed;

Bom.
V of
1879.

(b) no person shall transfer any land in respect of which a notification under section 15 has been issued.

Rights in
holdings.

28. Every owner to whom a holding is allotted in pursuance of a scheme of consolidation shall have the same rights in such holding as he had in his original holding:

Provided that nothing in this section shall apply to any person to whom a holding has been allotted under the provisions of sub-section (4) of section 21.

29. (1) If the holding of an owner included in a scheme of consolidation which has come into force under section 22 is burdened with a lease, mortgage, debt or other encumbrance, such lease, mortgage, debt or other encumbrance shall be transferred therefrom and attach itself to the holding allotted to him under the scheme or to such part of it as the Consolidation Officer may, subject to any rules made under section 37, appoint; and the lessee, mortgagee, creditor or other encumbrancer, as the case may be, shall exercise his rights accordingly. Transfer of encumbrances.

(2) If the holding to which a lease, mortgage, debt or other encumbrance is transferred under sub-section (1) is of less market value than the original holding from which it is transferred, the lessee, mortgagee, creditor or other encumbrancer, as the case may be, shall subject to the provisions of section 30 be entitled to the payment of such compensation by the owner of the holding, as the case may require, as the Consolidation Officer may determine.

(3) Notwithstanding anything contained in section 21, the Consolidation Officer shall, in the prescribed manner, put any lessee, mortgagee or other encumbrancer entitled to possession into possession of the holding to which his lease, mortgage or other encumbrance has been transferred under sub-section (1).

30. Where there is a dispute in respect of the apportionment of—

(a) the amount of compensation determined under sub-section (2) of section 16 or sub-section (4) of section 17;

(b) the net value realized under sub-section (4) of section 21;

(c) the total amount of compensation determined under sub-section (2) of section 29,

the Consolidation Officer shall refer the dispute to the decision of the District Court and deposit the amount of the compensation or net value, as the case may be, in the Court and thereupon the provisions of sections 33, 53 and 54 of the Land Acquisition Act, 1894, shall, so far as may, apply. Apportionment of compensation or net value in case of dispute.

I of
1894.

31. Notwithstanding anything contained in any law for the time being in force, no person to whom a holding has been allotted under this Act shall—

(a) transfer any holding or part thereof except in accordance with such conditions as may be prescribed;

(b) except with the permission in writing of the Provincial Government, sub-divide such holding. Alienation and sub-division of consolidated holdings.

32. (1) If after a scheme has come into force it appears to the Provincial Government that the scheme is defective on account of an error, irregularity or informality the Provincial Government shall publish a draft of such variation in the prescribed manner. The draft variation shall state every amendment proposed to be made in the scheme. Power to vary scheme on ground of error, irregularity, informality.

(2) Within one month of the date of publication of the draft variation any person affected thereby may communicate in writing any objection to such variation to the Provincial Government through the Settlement Commissioner.

(3) After receiving the objections under sub-section (2) the Provincial Government may, after making such enquiry as it may think fit, by notification in the *Official Gazette*, make the variation with or without modifications or may not make any variation.

(4) From the date of the notification making the variation, the variation shall take effect as if it were incorporated in the scheme.

33. A scheme for the consolidation of holdings confirmed under this Act may at any time be varied or revoked by a subsequent scheme prepared, published and confirmed in accordance with this Act. Power to vary or revoke scheme.

CHAPTER V.

GENERAL.

Vesting of
powers of
Settlement
Commis-
sioner.

34. The Provincial Government may, by notification in the *Official Gazette*, invest the Collector with all or any of the powers of the Settlement Commissioner under this Act.

Power of
Provincial
Government
to call for
proceedings.

35. The Provincial Government may at any time for the purpose of satisfying itself as to the legality or propriety of any order passed by any officer under this Act call for and examine the record of any case pending before or disposed of by such officer and may pass such order in reference thereto as it thinks fit.

Appeal and
revision.

36. Except as provided in this Act, no appeal or revision application shall lie from any order passed under Chapter II, III or IV of this Act.

Rules.

37. (1) The Provincial Government may by notification in the *Official Gazette* make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, the Provincial Government may make rules, providing for—

- (a) the manner of publication under sub-section (2) of section 4 ;
- (b) the manner of giving public notice under sub-section (3) of section 5 ;
- (c) village records in which fragments shall be entered under sub-section (1) of section 6 ;
- (d) the manner in which the intention to make a scheme shall be published and the manner of preparation of the scheme under section 15 ;
- (e) the manner of publication under sub-section (2) of section 17 of a declaration made under sub-section (1) of the said section ;
- (f) the manner in which a draft scheme of consolidation shall be published under sub-section (1) of section 19 in the village or villages concerned ;
- (g) the manner of publication of a scheme under sub-section (1) of section 21, on its being confirmed ;
- (h) the manner in which a person may be evicted under sub-section (2) of section 21 ;
- (i) the manner in which compensation recoverable from an owner shall be deposited by him under sub-section (3) of section 21 ;
- (j) the manner in which right of holding may be allotted under sub-section (4) of section 21 ;
- (k) the form in which a certificate shall be granted under section 24 ;
- (l) the period within which an application shall be made under clause (b) of sub-section (2) of section 26 ;

(m) the guidance of the Consolidation Officer and other officers and persons in respect of the transfer of a lease, mortgage, debt or other encumbrance under sub-section (1) of section 29 ;

(n) the conditions in accordance with which holdings may be transferred under clause (a) of section 31 ;

(o) the manner of publication of a draft variation under sub-section (1) of section 32 ;

(p) the manner in which the area and assessment (including water-rate if any) of each reconstituted holding or part of such holding shall be determined ;

(q) the manner in which corrections shall be made in the Record of Rights in accordance with a scheme of consolidation ;

(r) generally, for the guidance of the Consolidation Officer and other officers and persons in all proceedings under this Act ;

(s) any other matter which is to be or may be prescribed.

(3) All rules made under this section shall be subject to the condition of previous publication.